

CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT
February 17, 2011 Meeting
Agenda Item 3

SUBJECT: Netherton Residence - (PA2011-016)
78 Royal Saint George Road
▪ Variance No. VA2011-003

APPLICANT: Laurence M. Netherton

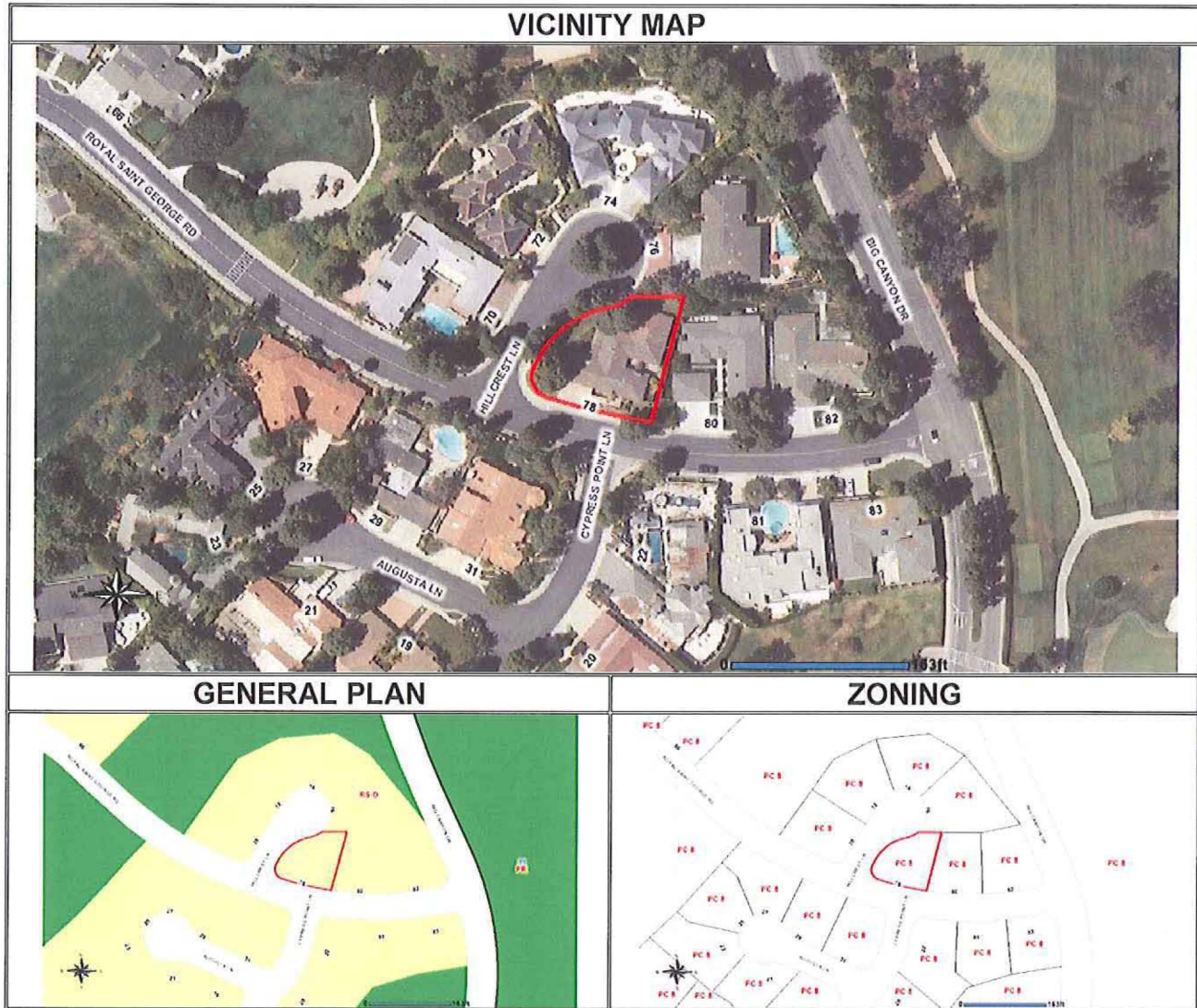
PLANNER: Patrick J. Alford, Planning Manager
(949) 644-3235; PAIford@newportbeachca.gov

PROJECT SUMMARY

The application is for a variance to allow a wall, up to 6 feet 8 inches in height, to be constructed within the 10-foot "streetside" side setback where the maximum height for walls, fences and hedges is limited to three (3) feet.

RECOMMENDATION

- 1) Conduct a public hearing; and
- 2) Adopt Resolution No. ____ approving Variance No. VA2011-003 (Attachment No. PC1).



| LOCATION | GENERAL PLAN | ZONING | CURRENT USE |
|----------|---|-------------------------------------|-------------------------|
| ON-SITE | Single-Unit Residential Detached (RS-D) | Big Canyon Planned Community (PC-8) | Single-unit residential |
| NORTH | RS-D | PC-8 | Single-unit residential |
| SOUTH | RS-D | PC-8 | Single-unit residential |
| EAST | RS-D | PC-8 | Single-unit residential |
| WEST | RS-D | PC-8 | Single-unit residential |

INTRODUCTION

Project Setting

The subject property is a 10,787-square-foot lot located within the Area 12 (Low Density Residential) of the Big Canyon Planned Community District. The subject property is relatively flat and is currently developed with a one-story, 2,886-square-foot single-unit dwelling. Vehicular access is currently via Royal Saint James Road. The adjacent lots are developed with similar one and two-story, single-unit dwellings.

The applicant is currently in plan check for a remodel involving the demolition of the existing three-vehicle garage, additions totaling 1,010 square feet, a new three-vehicle garage, and new planters, retaining walls, and privacy walls. The remodel includes the closing of the existing driveway on Royal Saint George Road and the construction of a new driveway on Hillcrest Lane.

Project Description

The applicant is requesting a variance to modify the Big Canyon Planned Community District standards relating to the height of walls, fences, and hedges to allow the construction of a new 5-foot-2-inch¹ concrete block wall, approximately seventy-one feet in length, in the streetside (eastern) side setback area. The Big Canyon Planned Community District Regulations (PC text) allows walls, fences, and hedges up to eight (8) feet in height, except in areas within ten (10) feet of front or streetside property lines, where they are limited to a height of three (3) feet.

DISCUSSION

A variance is a request to waive or modify certain standards when, because of special circumstances applicable to the property, including location, shape, size, surroundings, topography, or other physical features, the strict application of the development standards otherwise applicable to the property denies the property owner privileges enjoyed by other property owners in the vicinity and in the same zoning district. A variance can only be granted to maintain parity between the variance site and nearby properties in the same zoning district. To do otherwise would constitute a grant of special privileges that is inconsistent with the limitations upon other properties.

¹ The Canyon Hills Community Association approved the wall with a maximum height of 6 feet 8 inches, measured from the sidewalk. The PC text is silent on the method of measuring the height of walls; therefore, the methodology defaults to the Zoning Code, where the height of a fence, hedge, or wall is measured from the lowest existing grade at the location where the fence, hedge, or wall is located. The proposed plan depicts the wall with a height of 5 feet 2 inches from existing grade.

Analysis

The applicant states that the variance is justified due to the unique orientation of the lot; that the lot is irregular in shape with a deep concave curvature from the bulb of the Hillcrest Lane cul-de-sac; and that this configuration results in an unusual site plan that places private outdoor space adjacent to the street. The applicant states that limiting the wall to the maximum height of three (3) feet or constructing the wall outside of the 10-foot streetside setback area would deny the property the use of private outdoor living space enjoyed by other properties in Big Canyon (see Attachment PC2).

A review of the modification permits in the immediate vicinity of the project site indicates that site planning on the corner lots has been problematic over the years:

- 70 Hillcrest - Modification Permit No. 810 allowed a 6-foot-high wall to encroach 3 feet 6 inches into the corner clear triangle (06/18/74).
- 70 Hillcrest - Modification Permit No. 3626 allowed an addition to the dwelling at to encroach 4 feet 6 inches into the 15-foot rear setback. The Modifications Committee found that the encroachment was a reasonable design solution to an irregularly-shaped lot (11/21/89).
- 31 Augusta - Modification Permit No. 3962 allowed a 6-foot-high wall to encroach ten (10) feet into the 10-foot streetside setbacks. The wall replaced an existing 6-foot-high fence built by the developer (01/23/92).
- 22 Cypress Point – Modification Permit No. 3509 allowed new 7-foot-high entry gates and an as-built 6-foot-high fence to encroach into the 10-foot streetside setbacks (04/11/89).

It should be noted that this application requires a variance because there is now a limit on the amount of deviation to development standards that can be approved with a modification permit. Since the adoption of the current Zoning Code in October 2010, modifications are limited to not more than a ten (10) percent deviation on certain development standards, including the height of fences, hedges, and walls.

Each modification permit or variance request is unique and reviewed against the characteristics of each subject property. Therefore, approval of a modification permit or variance does not establish a precedent for future requests. Furthermore, the findings required to approve a modification permit are different from those for a variance, particularly for modification permits approved prior to 2005. However, this history of modification permit applications does support the contention that shape of the subject corner lot may constitute special circumstances that result in additional constraints that are not applicable other properties in the Big Canyon Planned Community.

Section 20.52.090.F of the Zoning Code, requires the Planning Commission to make the following findings before approving a variance:

- A. *That there are special or unique circumstances or conditions applicable to the subject property (e.g. location, shape, size, surrounding, topography, or other physical features) that do not apply generally to other properties in the vicinity under an identical zoning classification.*
- B. *That strict compliance with Zoning Code requirements would deprive the subject property of privileges enjoyed by other properties in the vicinity and under an identical zoning classification.*
- C. *That the granting of the Variance is necessary for the preservation and enjoyment of substantial property rights of the applicant.*
- D. *That the granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and in the same zoning district.*
- E. *That the granting of the Variance will not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood.*
- F. *Granting of the Variance will not be in conflict with the intent and purpose of this Section, this Zoning Code, the General Plan, or any applicable specific plan.*

Staff concludes that there are facts associated with the subject property that support the required findings. The lot is triangular in shape with a rounded corner, which is different from interior and corner lots in the vicinity. This lot configuration limits the amount of private outdoor space on the property. Strict compliance with the height and setback requirements for fences, hedges, and walls would significantly limit the usability of this limited outdoor space, thus denying the property owner of a substantial property right.

The Public Works Department has reviewed the proposed design and location of the wall and does not foresee any sight-distance or other public safety issues.

The proposed wall will feature pilasters and decorative caps and will be treated with stucco to match the exterior of the dwelling unit. Therefore, the proposed wall will be compatible with the existing development in the Big Canyon Planned Community.

Therefore, staff recommends that the Planning Commission approve Variance No VA2011-003 based on the discussion and facts above and the recommended conditions of approval that have been incorporated into the attached Resolution and Exhibit (Attachment No. PC1).

Alternatives

The Planning Commission may deny the variance application.

Environmental Review

The project is categorically exempt under Section 15301, of the California Environmental Quality Act (CEQA) Guidelines - Class 1 (Existing Facilities).

Public Notice

Notice of this hearing was published in the Daily Pilot, mailed to property owners within 300 feet of the property, and posted at the site a minimum of ten (10) days in advance of this hearing, consistent with the Municipal Code. Additionally, the item appeared upon the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared and Submitted by:



Patrick J. Alford, Planning Manager

ATTACHMENTS

- PC 1 Draft Resolution with Findings and Conditions
- PC 2 Statement of Proposed Project
- PC 3 Project plans

Attachment No. PC 1

Draft Resolution with Findings and Conditions

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH APPROVING VARIANCE NO. VA2011-003 TO ALLOW A WALL TO EXCEED THE HEIGHT LIMIT IN A SIDE SETBACK AREA AT 78 ROYAL SAINT GEORGE ROAD (PA2011-016)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Laurence M. Netherton, with respect to the property located at 78 Royal Saint George Road, and legally described as Lot 30 of Tract 7223 requesting approval of a variance.
2. The applicant proposes a variance to allow a wall, up to 6 feet 8-inches in height, to be constructed within the 10-foot "streetside" side setback where the maximum height for walls, fences and hedges is limited to three (3) feet.
3. The subject property is located within the Big Canyon Planned Community (PC-8) Zoning District and the General Plan Land Use Element category is Single-Unit Residential Detached (RS-D).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on February 17, 2011, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

The project is categorically exempt under Section 15301, of the California Environmental Quality Act (CEQA) Guidelines - Class 1 (Existing Facilities). The exemption includes the addition of accessory structures to an existing structure.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.090.F of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

- A. *That there are special or unique circumstances or conditions applicable to the subject property (e.g. location, shape, size, surrounding, topography, or other physical features)*

that do not apply generally to other properties in the vicinity under an identical zoning classification.

Facts in Support of Finding:

- A-1. The subject property is a 10,787-square-foot lot located within the Area 12 (Low Density Residential) of the Big Canyon Planned Community District.
- A-2. The subject property is triangular in shape with a rounded corner, which is different from interior and other corner lots in the vicinity.
- A-3. The lot configuration limits the amount of private outdoor space on the subject property.

Finding:

- B. That strict compliance with Zoning Code requirements would deprive the subject property of privileges enjoyed by other properties in the vicinity and under an identical zoning classification.*

Facts in Support of Finding:

- B-1. Strict compliance with the Big Canyon Planned Community District Regulations' 3 foot height limit for fences, hedges, and walls and the 10-foot streetside setback would significantly limit the usability of the limited outdoor space on the subject property.
- B-2. Significantly limiting the usability of the limited outdoor space on the subject property would deny the property owner of privileges enjoyed by other properties in the vicinity and under Big Canyon Planned Community District.

Finding:

- C. That the granting of the Variance is necessary for the preservation and enjoyment of substantial property rights of the applicant.*

Facts in Support of Finding:

- C-1. The granting of the Variance would allow the construction of a privacy wall in a location and of a height sufficient to allow the property enjoyment of the limited outdoor space on the subject property.

Finding:

- D. That the granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and in the same zoning district.*

Facts in Support of Finding:

D-1. The granting of the Variance would not constitute a special privilege inconsistent with the limitations upon other properties in the Big Canyon Planned Community as it allows the property owner to maintain parity with the usable outdoor space enjoyed by nearby properties.

E. That the granting of the Variance will not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood.

Facts in Support of Finding:

E-1. The proposed design and location of the wall does not interfere with the provision of safe sight distances.

E-2. The proposed wall will feature pilasters and decorative caps and will be treated with stucco to match the exterior of the dwelling unit, which will be compatible with the existing development in the Big Canyon Planned Community.

F. Granting of the Variance will not be in conflict with the intent and purpose of this Section, this Zoning Code, the General Plan, or any applicable specific plan.

Facts in Support of Finding:

F-1. The Land Use Element of the General Plan designates the subject property Single-Unit Residential Detached (RS-D). The RS-D land use designation is intended to provide for a range of detached single-family residential dwelling units on a single legal lot.

F-2. The subject property is located within the Area 12 of the Big Canyon Planned Community District, which is intended for low density residential development.

F-3. The subject property is not located within a specific plan area.

F-4. The granting of the Variance would allow the construction of accessory structure to an existing single-unit detached dwelling unit, which is consistent with the RS-D land use designation and Area 12 of the Big Canyon Planned Community District.

SECTION 4. DECISION.**NOW, THEREFORE, BE IT RESOLVED:**

1. The Planning Commission of the City of Newport Beach hereby approves Variance No. VA2011-003, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.

2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 17th DAY OF FEBRUARY, 2011.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Earl McDaniel, Chairman

BY: _____
Michael Toerge, Secretary

EXHIBIT "A"**CONDITIONS OF APPROVAL**

(Project-specific conditions are in italics)

PLANNING

1. *The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)*
2. *Variance No. VA2011-003 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.*
3. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
4. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
5. This approval was based on the particulars of the individual case and does not in and of itself or in combination with other approvals in the vicinity or Citywide constitute a precedent for future approvals or decisions.
6. This Variance may be modified or revoked by the City Council or Planning Commission should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
7. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Department.
8. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Netherton Residence including, but not limited to, the Variance No. VA2011-003. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or

proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Building

9. The applicant is required to obtain all applicable permits from the Building Division of the Community Development Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code.

Attachment No. PC 2

Statement of Proposed Project

**Laurence & Cynthia Netherton
2004 Yacht Vigilant
Newport Beach CA 92660
(949) 720-1514**

Correspondence
Item No. 3a
Netherton Residence
PA2011-016

February 2, 2011

Mr. Patrick Alford
Planning Manager
Planning Department
City of Newport Beach
3300 Newport Blvd.
Newport Beach, CA 92663

RE: Netherton Residence
78 Royal Saint George
APN: 442-131-03

Dear Mr. Alford:

This is an application for a variance from the privacy wall setback – local street - as described in Section V. (D) of the Planned Community District Regulations, Big Canyon Amendment No. 4, City of Newport Beach, January 1981, as subsequently amended.

The subject of this application is the location of a proposed privacy wall at the above captioned property, which is located at the corner of Royal Saint George and Hillcrest in Big Canyon. The wall is proposed within ten feet of the property line.

The justifications for the request are:

- The orientation of the lot is unique in Big Canyon; it has an irregular shape with a deep concave curvature formed by the cul-de-sac bulb.¹ This shape creates an unusual site plan that exposes to the street those yard areas that are private spaces in on other lots.
- The proposed design is consistent with other conventional shaped lots throughout the community and been designed to enhance an otherwise inconsistent streetscape and aesthetically unappealing appearance in the property's current condition.

¹ I believe there is only one other with the same configuration, at 10 Royal Saint George Road. The house does not appear to have been changed from its original configuration.

- The proposed location of the wall would deny use of private outdoor space enjoyed by other properties.
- The granting of the variance would not be inconsistent with other properties in the vicinity.
- The wall is part of a major remodel of an original home that would enhance the neighborhood.

The plans for the wall and associated remodel have been approved by the Big Canyon Homeowners Association (Attachment 1).

The plans were submitted on Oct. 7, 2010 and assigned permit number X2010-2379. The plans were between first and second plan-check as of December 31, 2010. Information not provided herein is available on those plans.

The following attachments are in support of this application:

- Attachment 1 includes Big Canyon Community Association Approvals
- Attachment 2 shows Big Canyon Community Association agreements pertaining to parking mitigation and the privacy wall.
- Attachment 3 shows the plot plan and elevations.
- Attachment 4 shows the proposed wall and the location of a ten-foot setback. If a ten foot setback were to apply, the yard would be virtually eliminated.
- Attachment 5 shows photographs of the existing conditions along Hillcrest. The views show the exposure of the family room and bedrooms to Hillcrest. This leaves virtually no privacy for the existing residence or the proposed remodel. It also creates a less attractive streetscape along Hillcrest. This is an exceptional condition in Big Canyon, where most lots are either conventional in-line or corner rectangular shapes.
- Attachment 6 shows the frontage of other houses on Hillcrest.
 - 70 Hillcrest is dominated by a four car garage.
 - 72 Hillcrest frontage is a landscaped privacy wall and three car garage
 - 74 Hillcrest frontage consists entirely of a six car garage.
 - 76 Hillcrest frontage consists of a privacy wall, garage entry and service bay.
 - 80 Royal Saint George is a typical in-line lot.

The subject property is the only property on Hillcrest that exposes interior private spaces to within fifteen feet or less of the street.

- Attachment 7 further illustrates how the current configuration is inconsistent with other walls in the immediate area. Where side or rear yards are adjacent to the street, even in conventional configurations, those yards are defined by walls that are sidewalk-adjacent or stepped back with planting strips.
- Attachment 8 shows privacy walls elsewhere shows privacy walls elsewhere in Big Canyon, illustrating the overall community visual impact of the street where private yard areas would otherwise be exposed to the street.

We appreciate your attention to this matter. Please contact me or our architect, Eric Mossman, should you have any questions.

Sincerely,

Laurence Netherton
(949) 644-3514 ext 24 office
(949) 433-5916 cell

cc: Eric Mossman, (949) 500-7212

**ATTACHMENT 1: BIG CANYON COMMUNITY ASSOCIATION
ARCHITECTURAL APPROVALS, INCLUDING CONDITIONS PERTAINING TO
PRIVACY WALL**

- 1. Dated August 19, 2010**
- 2. Dated October 21, 2010**



Canyon Hills Community Association
Post Office Box 4708, Irvine, CA 92616
(949) 450-1515 / Fax (949) 585-0146 / e-mail umi@villageway.com

August 19, 2010

ARCHITECTURAL APPLICATION – CONTINGENCY LETTER

L. & C. Netherton
78 Royal St George Rd
Newport Beach, CA 92660

RE: Canyon Hills Community Association
78 Royal St George Rd

Dear L. & C. Netherton:

As Management Agent for the Canyon Hills Community Association, we have been instructed by the Board of Directors and/or Architectural Committee to contact you regarding your Architectural Application received for the following proposed improvement(s):

Please be advised that the Board of Directors had an opportunity to review your application at their recent meeting and herewith inform you that your application is CONTINGENT UPON THE FOLLOWING condition(s):

- **Variance regarding wall in the front setback: Height of wall is approved at 6' 8"**
- **Measurement of wall is based on the sidewalk as starting point and cannot exceed 6' 8" from that mark**
- **Per application & plans presented - light pole will be placed where it shows on the approved plans.**

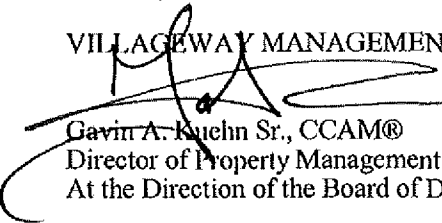
This conditional approval is effective for 180 days and automatically terminates on this date if the improvement does not take place within such time.

The improvement shall be in conformity with the plans and specifications submitted with your request. All work shall be done in a timely and workmanship manner, with the necessary permits and otherwise in compliance with all applicable building codes and other governmental rules or regulations. Additionally, you shall be responsible for any damage to Association common area caused as a result of work performed in conjunction with the aforementioned improvement to your property.

Should you have any questions regarding the above referenced information, please do not hesitate to contact the undersigned.

Sincerely,

VILLAGEWAY MANAGEMENT, INC.


Gavin A. Kuehn Sr., CCAM®
Director of Property Management
At the Direction of the Board of Directors

cc: Canyon Hills Community Association
LotFile



Canyon Hills Community Association
Post Office Box 4708, Irvine, CA 92616
(949) 450-1515 / Fax (949) 585-0146 / e-mail umi@villageway.com

October 21, 2010

L. & C. Netherton
78 Royal St George Rd
Newport Beach, CA 92660

RE: Architectural Application – Approval Letter
Canyon Hills Community Association
78 ROYAL ST GEORGE RD

Dear L. & C. Netherton:

As Management Agent for the Canyon Hills Community Association, we have been instructed by the Board of Directors and/or Architectural Committee to contact you regarding your Architectural Application received on 10/07/2010 for the following proposed improvement(s):

- **Architectural application approved. Landscape requires further review.**

Please be advised that the Board of Directors had an opportunity to review your application at their recent meeting and herewith inform you that your application has been APPROVED. This approval is effective until 180 days and automatically terminates on this date if the improvement does not take place within such time.

The improvement shall be in conformity with the plans and specifications submitted with your request. All work shall be done in a timely and workmanship manner, with the necessary permits and otherwise in compliance with all applicable building codes and other governmental rules or regulations. Additionally, you shall be responsible for any damage to Association common area caused as a result of work performed in conjunction with the aforementioned improvement to your property.

Should you have any questions regarding the above referenced information, please do not hesitate to contact the undersigned.

Sincerely,

VILLAGEWAY MANAGEMENT, INC.

Lin Aragon
Associate Property Manager
At the Direction of the Board of Directors

cc: Canyon Hills Community Association
Lot File

**ATTACHMENT 2: BIG CANYON COMMUNITY ASSOCIATION
AGREEMENTS PERTAINING TO PARKING MITIGATION AND WALL LOCATION**

- 1. July 22, 2010 Letter From HOA regarding proposal for parking mitigation and wall location**
- 2. Aug 3, 2010 Agreement with HOA regarding parking mitigation and wall location**
- 3. Big Canyon Neighbor Approval Form showing one disapproval conditioned upon above mitigation measures.**



Canyon Hills Community Association
Post Office Box 4708, Irvine CA 92616
(949) 450-1515 / Fax (949) 585-0146 / e-mail urni@villageway.com

July 22, 2010

L. & C. Netherton
78 Royal St George Rd
Newport Beach, CA 92660

RE: Architectural Application -- Tentative Denial Letter
Canyon Hills Community Association
78 ROYAL ST GEORGE RD

Dear L. & C. Netherton:

As Management Agent for the Canyon Hills Community Association, we have been instructed by the Board of Directors and/or Architectural Committee to contact you regarding your Preliminary Architectural Submittal received on 06/23/2010 for the proposed improvement(s) as follows:

- Preliminary Submittal

Please be advised that the Board of Directors had an opportunity to review your Architectural Application at their meeting held on 07/22/2010 and herewith inform you that your application has been TENTATIVELY DENIED based upon the following:

- Upon review, the Board of Directors has requested that the following items be agreed upon or presented for review prior to approval:
 - Elevation view showing planter / small retaining wall on common area.
 - Color choices should maintain earth tones
 - The neighbors on Hillcrest have agreed to bear the cost of the removal and relocation of the street light. The Board of Directors, in an effort to create harmony within the affected area, will offer a compromise:
"If the Netherton's agree to remove the "Bubble" bump out before the Cul-de-Sac (at the street light area) and incur all costs related to this project, the Board of Directors will approve the requested small retaining wall on the common area, as shown on the submitted drawings. This work will need to be completed with the creation / relocation of the driveway. This would increase parking for the affected neighbors and allow the Netherton's to create the desired aesthetic effect they are looking for.

Please submit these items to Management for review by the Board.

Should you have any questions regarding the above referenced information, please do not hesitate to contact the undersigned.

Sincerely,

VILLAGEWAY MANAGEMENT, INC.

Chelsea Lo, CCAM®
Property Manager
At the Direction of the Board of Directors

cc: Canyon Hills Community Association
Lot File



Canyon Hills Community Association
Post Office Box 4708, Irvine CA 92616
(949) 450-1515 / Fax (949) 585-0146 / e-mail urni@villageaway.com

August 3, 2010

Laurence & Cynthia Netherton
78 Royal St George Rd
Newport Beach, CA 92660

Dear Laurence & Cynthia Netherton,

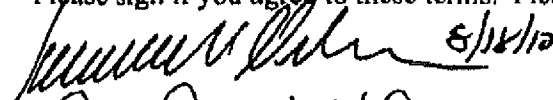
The Board of Canyon Hills Community Association (Association) is seeking to aid in finding a solution which is mutually acceptable to the affected parties.

To resolve the concerns, it is being proposed:

Neighbors will accept all responsibility and costs associated with the relocation of the street light in accordance with the requirements of the City of Newport Beach. Mr. & Mrs. Netherton will be allowed to relocate the driveway apron onto Hillcrest Lane in accordance with plans submitted by their architect. The Netherton's would accept responsibility and associated costs for removing and relocating curbing on Hillcrest Lane approximately adjacent to the relocated driveway apron to provide for additional on-street parking and improve the navigability on the street in accordance with the requirements of the City of Newport Beach. In addition, Mr. & Mrs. Netherton would remove the existing driveway apron on Royal St. George, install a curb, gutter and paving (if required) to provide for additional parking space.

Association would allow the construction of a planter/wall within the Right of Way of Hillcrest Lane in accordance with the plans submitted by the architect, subject to the Association approval of the cross section of the planter/wall yet to be submitted by the Architect.

Please sign if you agree to these terms. Please return original to the above address.


Cynthia Netherton
(Homeowner signature and date)
6/18/10

Canyon Hills Community Association

FORM 2

NEIGHBOR AWARENESS: The intent is to advise your neighbors who own property surrounding yours. Failure to obtain these signatures will constitute an incomplete submittal. The neighbor signature is not an approval. Neighbors who disagree are invited to write their comments to the Architectural Committee in care of the management company.

644-4370

| | NAME & ADDRESS | SIGNATURE | APPROVE/DENIED | DATE |
|----|---|--------------------|----------------|---------|
| 1. | 66 SUTHERLAND 80 RYAN ST. GEORGE NEWPORT BEACH CA | <i>[Signature]</i> | APPROVED | 6/5/10 |
| 2. | 76 HILLCREST LN " | <i>[Signature]</i> | " | 6-9-10 |
| 3. | DONOVAN W. J. 72 HILLCREST Newport Beach | <i>[Signature]</i> | Approved | 6/11/10 |
| 4. | <i>[Signature]</i> a a " | <i>[Signature]</i> | " | " |
| 5. | <i>[Signature]</i> 70 HILLCREST LN | <i>[Signature]</i> | Approved | 6/21/10 |
| 6. | J. Todd Anderson 74 Hillcrest | <i>[Signature]</i> | Disapproved | 6/25/10 |

For additional comments, please submit a separate piece of paper and attach to form.

ARCHITECTURAL COMMITTEE

- () Approval
- () Refer to Board of Directors for recommendations
- () Conditional Approval
- () Disapproval for the following reasons:

Subject to relocation
of light post & re-work
of curb to replace
lost parking

Date

Architectural Committee Member

Date

Architectural Committee Member

cc: Homeowner File
Architectural File
Architectural Committee

ATTACHMENT 3: SITE PLAN AND ELEVATIONS

Site Plan as submitted under permit number X2010-2379:

Note the detail in the upper left corner describing the wall / planter configuration and the location of the wall on an approximately fifty foot portion of Hillcrest. This also shows the unusual configuration of the lot which prevents a conventional wall layout.

Elevations:

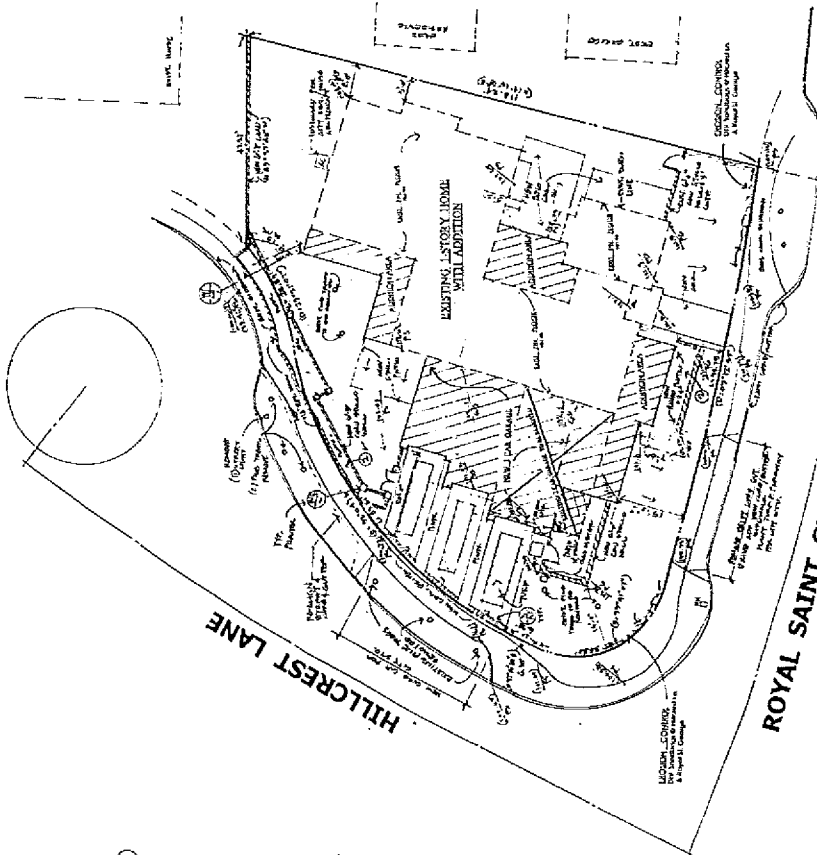
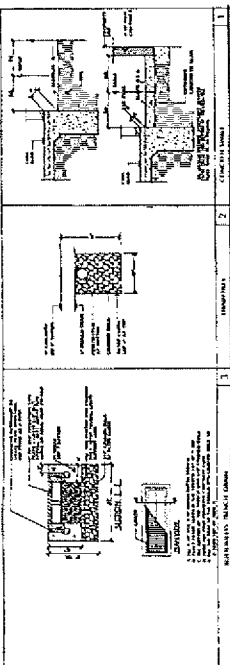
The proposed wall is shown on the “Street Elevation – Hillcrest Lane” to the garage.

| NO. | REVISIONS |
|-----|-----------|
| 1 | AS SHOWN |
| 2 | AS SHOWN |
| 3 | AS SHOWN |
| 4 | AS SHOWN |
| 5 | AS SHOWN |
| 6 | AS SHOWN |
| 7 | AS SHOWN |
| 8 | AS SHOWN |
| 9 | AS SHOWN |
| 10 | AS SHOWN |

ERIC F. MOSSMAN
 ARCHITECT
 7701 N. BAYVIEW BLVD. SUITE 100, NEWPORT BEACH, CA 92660
 (714) 841-1232
 FAX (714) 841-1233

Cynthia Lawrence Netherton
 Client Name
 77 Royal St. George, Big City, Newport Beach, CA

| | |
|---------|-------------------|
| DATE | 10/1/88 |
| PROJECT | LOT 30, TRACT 723 |
| SCALE | 1" = 10' |
| AL | |



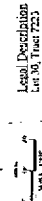
NEW 1-1/2" x 10" ADJUSTABLE

EXISTING HOUSE
 1. EXISTING HOUSE
 2. EXISTING HOUSE
 3. EXISTING HOUSE
 4. EXISTING HOUSE
 5. EXISTING HOUSE
 6. EXISTING HOUSE
 7. EXISTING HOUSE
 8. EXISTING HOUSE
 9. EXISTING HOUSE
 10. EXISTING HOUSE

DEMOS. NOTE:
 1. EXISTING HOUSE
 2. EXISTING HOUSE
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 10. EXISTING HOUSE

NOTES:
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 10. EXISTING HOUSE

Local Description:
 Lot 30, Tract 723



SITE PLAN

LOT AREA
 19,801 S.F.

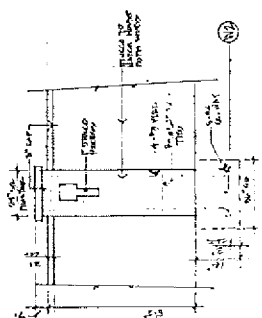
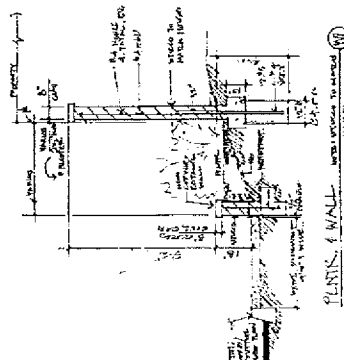
GRADING NOTE
 NEW DRAINAGE TO BE RELATIVELY SAME
 AS EXISTING GRAD.

COMPANION GARAGE
 CL 117' 0" N.E.
 RL 112' 0" N.E.

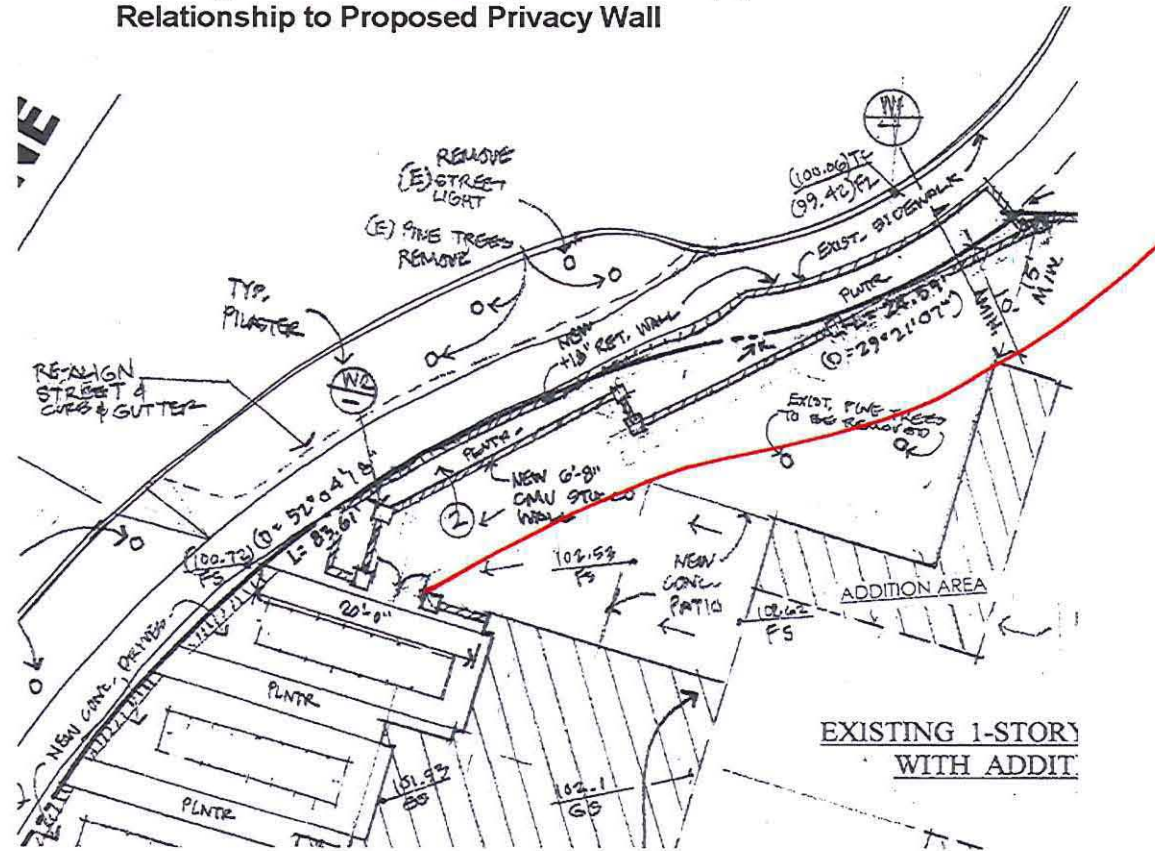
BUILDING AREA
 2,447 S.F.
 1,010 S.F.
 1,010 S.F.
 1,010 S.F.
 1,010 S.F.
 1,010 S.F.
 1,010 S.F.
 1,010 S.F.
 1,010 S.F.
 1,010 S.F.

EXISTING LIVING
 1,010 S.F.
 1,010 S.F.
 1,010 S.F.
 1,010 S.F.
 1,010 S.F.
 1,010 S.F.
 1,010 S.F.
 1,010 S.F.
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 1,010 S.F.

EXISTING LIVING
 1,010 S.F.
 1,010 S.F.
 1,010 S.F.
 1,010 S.F.
 1,010 S.F.
 1,010 S.F.
 1,010 S.F.
 1,010 S.F.
 1,010 S.F.
 1,010 S.F.



Existing 10 ft. Setback Line per Section V.(D) and
Relationship to Proposed Privacy Wall



ATTACHMENT 4: SITE SKETCH SHOWING PROPOSED WALL

ATTACHMENT 5: EXISTING CONDITIONS ALONG HILLCREST



5A. Hillcrest frontage from Royal Saint George



5B. Hillcrest frontage toward Royal Saint George



5C. Royal Saint George frontage

ATTACHMENT 6: OTHER FRONTAGES ALONG HILLCREST



6A. Corner of Royal Saint George and Hillcrest, Showing 70 (left) and 72 Hillcrest frontages



6B. Interior of Hillcrest cul de sac, showing 72 (left) and 74 Hillcrest frontages (note that the short length results in most frontage taken up by garages.)

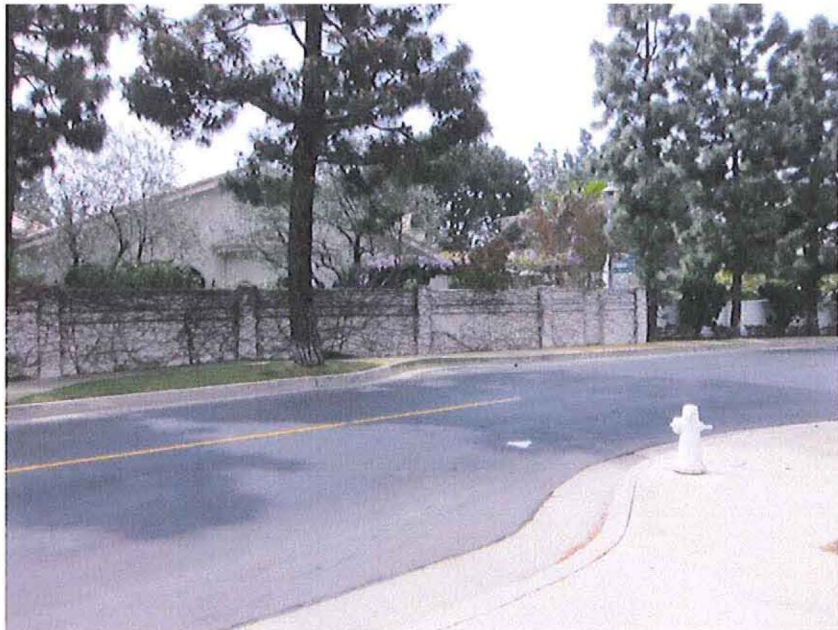


6C. View into Hillcrest cul de sac, showing 74 (left) and 76 Hillcrest garage frontages

ATTACHMENT 7: NEIGHBORING PRIVACY WALLS



7A. 70 Hillcrest wall along Royal Saint George



7B. 31 Augusta wall along Royal Saint George across from subject property



7C. 29 Augusta wall along Royal Saint George across from 70 Hillcrest



7D. 22 Cypress wall along Royal Saint George across from subject property

ATTACHMENT 8: OTHER BIG CANYON PRIVACY WALLS







Attachment No. PC 3

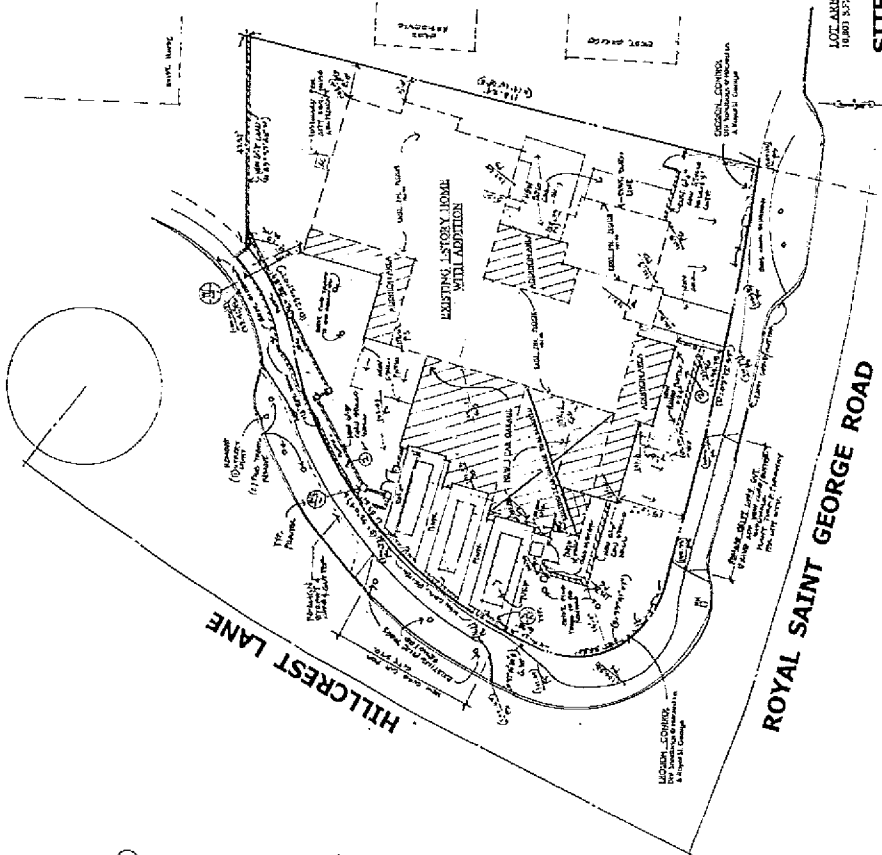
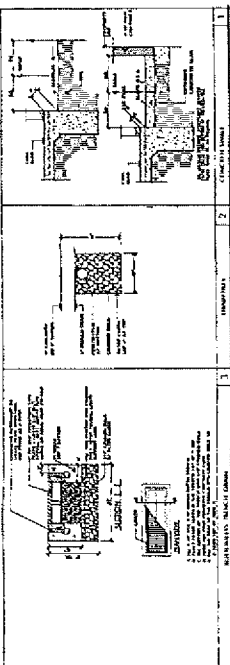
Project Plans

| | |
|-----------|-------------|
| DATE | |
| BY | |
| CHECKED | |
| APPROVED | |
| REVISIONS | |
| NO. | DESCRIPTION |
| 1 | |
| 2 | |
| 3 | |
| 4 | |
| 5 | |
| 6 | |
| 7 | |
| 8 | |
| 9 | |
| 10 | |

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Cynthia Lawrence Netherton
 Client Name
 77 Royal St. George, Big Cyn, Newport Beach, CA

| | |
|-------------|----|
| PROJECT NO. | AL |
| DATE | |
| BY | |
| CHECKED | |
| APPROVED | |



GRADING NOTE
 NEW DRAINAGE TO BE RELATIVELY SAME
 AS EXISTING GRADUAL

COMPARISON OF AREAS
 CL 117.00, TL 117.00, RL 117.00

BUILDING AREA
 CL 117.00, TL 117.00, RL 117.00

EXISTING LIVING
 CL 117.00, TL 117.00, RL 117.00

NEW LIVING
 CL 117.00, TL 117.00, RL 117.00

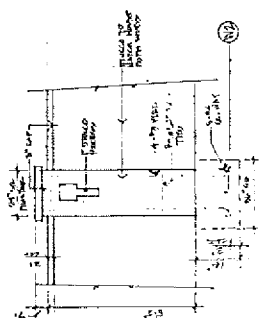
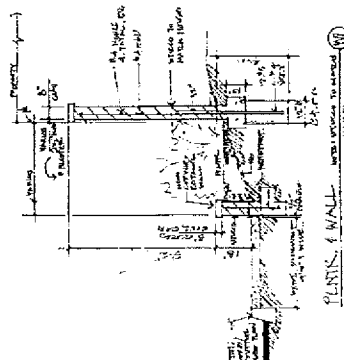
NEW GARAGE
 CL 117.00, TL 117.00, RL 117.00

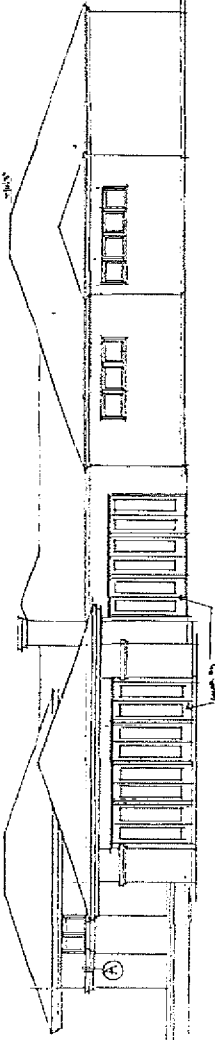
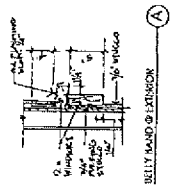
TOTAL LOT COVERAGE
 3,330 S.F.

LOT AREA
 10,000 S.F.

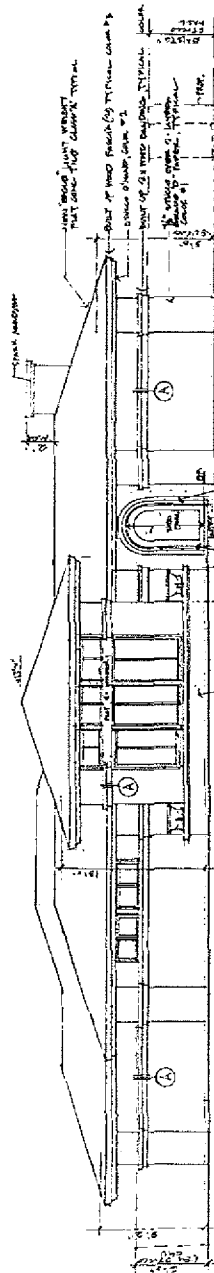
LEGAL DESCRIPTION
 Lot 10, Tract 723

REMARKS:
 1. ALL DIMENSIONS TO BE SHOWN ON THIS PLAN.
 2. ALL DIMENSIONS TO BE SHOWN ON THIS PLAN.
 3. ALL DIMENSIONS TO BE SHOWN ON THIS PLAN.
 4. ALL DIMENSIONS TO BE SHOWN ON THIS PLAN.
 5. ALL DIMENSIONS TO BE SHOWN ON THIS PLAN.
 6. ALL DIMENSIONS TO BE SHOWN ON THIS PLAN.
 7. ALL DIMENSIONS TO BE SHOWN ON THIS PLAN.





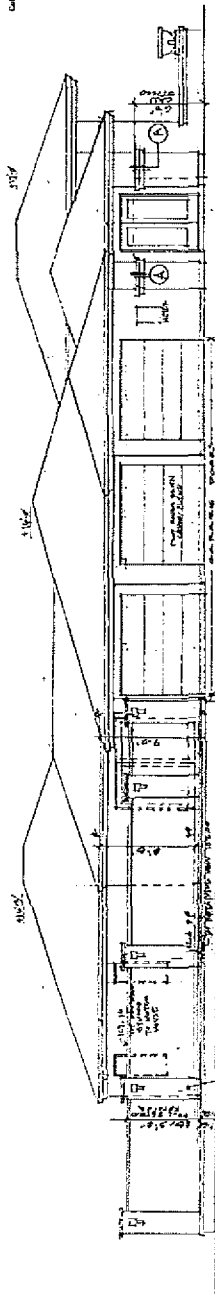
EAST ELEVATION



STREET ELEVATION

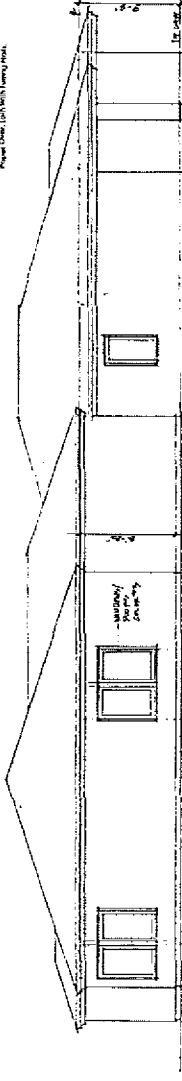
COLOR PALETTE
Paint by "Franz Maltz"

| | | |
|----------|---------------|---------|
| Color #1 | Obsidian | #708 |
| Color #2 | Mercury White | #B97 |
| Color #3 | Amethyst | #C83919 |



STREET ELEVATION

EXTERIOR WALLS & PARTITION
1st floor
interior partition removed "open"
down stairs
new glass door 10' x 7'
w/ divider, 1 hour rated Grade 90"



NORTH ELEVATION